

ARTICLE 140049
ON PAGE 217THE NATION
24 May 1980

SNEPP AND 'CONFIDENTIALITY'

The C.I.A.
As Censor

ARYEH NEIER

It is much more safe to be feared than to be loved.—Niccolò Machiavelli, *The Prince* (1513)

On March 6, when several Central Intelligence Agency officials testified at a secret hearing of the Permanent Select Committee on Intelligence of the U.S. House of Representatives, they provided a fascinating revelation of the values the Agency most fiercely guards. The hearing was called at the request of

Representative Les Aspin of Wisconsin and was intended to inform the members of the committee about the censorship procedures that are being employed by the C.I.A. in the wake of the Supreme Court's *Snepp* decision. The C.I.A. officials who testified are associated with the Agency's Publications Review Board; that is, they are the C.I.A.'s censors. A transcript of the hearing has now been released by Representative Aspin. Although parts have been deleted, what remains shows clearly that to the Agency watchdogs, the shadow of its image is more important than the substance of the information it wishes to suppress.

At the hearing, Representative Aspin inquired about a passage in the *Snepp* decision, "where it says . . . that a former intelligence agent's publication of unreviewed material relating to intelligence activities can be detrimental to vital national interests; even if the published information is unclassified. What is your view of that?" Ernest Mayerfeld, an attorney in the C.I.A.'s Office of General Counsel, responded: "Oh, I most emphatically agree with that statement. That, indeed, is the whole point of the *Snepp* case; and I think Director [Stansfield] Turner, in the course of the trial, testified to this eloquently. He said, if we cannot control our own employees, if they can flout the obligation that they have with us, what kind of a signal are we sending to our sources? What kind of a signal are we sending to our cooperators? It doesn't matter whether there is anything in there or not which in fact hurts, but if they can with impunity violate their obligation and publish, it sends a very bad and dangerous message to our sources."

At another point in the publication of *My Life in the C.I.A.* States was submitted passages disclosed in the French edition, only was the class of the discrepancy to tell exactly what officials have long feared the greatest damage published but also identified as classified. It saves any hostile government a lot of time, makes it plain that the C.I.A. has a reason to conceal the information and confirms its accuracy. Yet, as the following exchange indicates, at the hearing the C.I.A.'s censors did not demonstrate any concern about Colby's book:

Mr. Aspin: How about suing Bill Colby for the proceeds from the French edition?

Mr. Wilson [executive secretary of the C.I.A.'s Publications Review Board]: We could not sue him on the same ground as *Snepp*, in my opinion. I am not an attorney, Mr. Aspin, but Mr. Colby did submit his manuscript for review.

Mr. Aspin: But the book was published in the French edition without changes.

Mr. Hetu [director of the C.I.A.'s Office of Public Affairs and chairman of its Publications Review Board]: As we understand it, Mr. Colby's U.S. publisher had a copy of the original manuscript and provided it to the French without making changes.

Mr. Aspin: Suppose *Snepp* had sent his manuscript in and you had reviewed it but it had been published that way and somebody could say, gee, the publisher just made a mistake, would that have let *Snepp* off the hook?

Mr. Hetu: A hypothetical. I just don't know what would have happened in that case.

Aspin dropped the line of questioning, but it would be interesting to know what the C.I.A. officials would have said if he had pointed out that Colby violated the C.I.A.'s Termination Secrecy Agreement by giving an uncensored copy of his manuscript to his publisher. Under the agreement, Agency employees pledge never to "divulge, publish or reveal . . . classified information" to anyone outside the C.I.A. without its permission. The C.I.A. could have sued Colby and, since classified information was involved, would have had an easier time proving that it suffered damages than was possible in the case of *Snepp*.

A number of explanations are possible for the decision to sue *Snepp* but not to sue Colby. *Snepp* was a mere agent, Colby was the Director of the C.I.A. *Snepp* is a critic of the C.I.A., though not one who can be readily typed ideologically. Colby, despite his embittered relations with other